Integrating HIPAA Into Your Compliance Program

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Seven Elements of an Effective Compliance Program

Organization

Policy

Training

Monitoring

Communications

Responding to Concerns

Discipline
Organization

- Expansion of existing Compliance Committee for HIPAA Implementation Process
- Once implementation is complete, Privacy Officer and Compliance Officer coordinate ongoing privacy compliance management
- Key areas of representation for expanded Compliance Committee = HIPAA Implementation Task Force
Organization

Implementation Task Force Representation Considerations

- Medical Records
- Patient Financial Services
- Compliance/Risk Management
- Admissions
- Outpatient services
- IS
- Facilities
- Legal
- Marketing/Public Affairs
- Fundraising
- Operations/Planning
- Business Affairs
- Human Resources/Labor Relations
- Patient Relations

- Physicians
- Nurses/Patient Care Services
- Pharmacy
- Lab
- Residents/Teaching
- Physicians Relations
- Referrals
- Clinical - major product lines:
  - Research
  - Emergency
  - Cancer Services
  - Heart Services
  - Women’s Services
  - Surgical Services
  - Radiology

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Organization

- Compliance Officer
- Privacy Officer
- Security Officer
- Implementation Task Force / Expanded Compliance Committee
- Patient Privacy Advisory Council
Policy

- Code of Conduct and Compliance Policies

- Enterprise-wide policy review for privacy gap analysis – where are we now, where do we need to go?

- Modification of existing policies (examples: patient access to records, patient amendment of records, release of information for marketing purposes)

- Development of new policies (examples: accounting of disclosures, Notice of Privacy Practices, Business Associate Agreements)

- Policies for on-going compliance monitoring
Information Capture for development of the Notice of Privacy Practices

Does your department handle Protected Health Information (PHI) in any of the following ways?

- Create new PHI in electronic records
- Create new PHI in paper-based records
- Add PHI to records created by others
- Transfer PHI to another department within your hospital or business unit
- Receive PHI from another department within your hospital or business unit
- Disclose PHI to persons or entities outside your hospital or business unit
- Receive PHI from persons or entities outside your hospital or business unit
- Maintain PHI in electronic records in your department
- Maintain PHI in paper-based records in your department
- Review PHI created or compiled by others for other than treatment or payment
- Other (explain) ____________________________

*Not applicable: This department does not handle PHI*

Please complete the sections below only for each of the boxes checked above.
Information Capture for Notice Development (continued)

- What PHI is created (added)?
- For what purpose is PHI created (added, transferred, received, disclosed, reviewed)?
  Treatment___  Payment___  Other (please describe the purpose)
- To which other departments (outside entities) is PHI transferred (received)?
- How is PHI transferred (received)? (original paper-based records, copies of paper based records, fax, email, telephone, etc.)
- What specific information is transferred (received, maintained, viewed)? (clinical information, demographic information, billing information, etc.)
- How is disclosure authorized? (written patient consent, required by law or regulation, required by contract, approved by IRB, etc.)
- In what format is PHI maintained (paper-based records, electronic-based records, CD’s, images, films, videotapes, etc.)
- Where is PHI maintained (in you department, in another location within the facility, off-site storage, etc.)
- How long is PHI maintained?
Policy Template

- Policy Title
- Purpose
- Policy Statement
- Scope of Policy
- Definitions
- Responsibilities
- Exceptions
- What Constitutes Non-Compliance
- Explanation and Details/Examples
- Requirements and Guidelines for Implementing The Policy
- Related Policies
- Procedures That Are Absolutely Linked To the Policy
- Legal Reporting Requirements
- Reference to Laws or Regulations of Outside Bodies
- Right To Change or Terminate Policy
Training

- Orientation Training now – begin to raise level of awareness

- Workforce training required on organization’s privacy policies and procedures

- Required training conducted towards completion of implementation – if privacy policies are changed, affected workforce must be retrained

- Training customized to workforce needs – 3 levels
  - Clinical staff – staff directly involved with patient treatment
  - Staff in contact with patient information
  - Staff with minimal/no contact with patient information

- eLearning platform – if you’ve been considering it, now’s a good time
Code of Conduct and General Compliance
Patient Confidentiality

• MedStar Health collects information about a patient’s medical condition, history, medication, and family illnesses in order to provide the best possible care.
Patient Confidentiality, continued

- MedStar Health realizes the sensitive nature of patient information and is committed to maintaining its confidentiality.
- We do not release or discuss patient-specific information with others unless it is authorized by:
  - law,
  - the patient’s written consent, or
  - departmental policy
What is HIPAA?

- Health Insurance Portability and Accountability Act
  - A law designed to make sure your personal health information is private and secure.
Privacy

• What does privacy mean?
  – Controlling who is allowed to get into information
  – The right to keep information about themselves from being released
Security

What does security mean?
- The ability to control the ways to get into information, and
- To protect information from:
  - Changes,
  - Destruction
  - Loss, and
  - Accidental or intentional release to people who did not have permission to receive it.
HIPAA’S COVERED ENTITIES

• Who is affected by HIPAA?
  1) Health care entities who transmit any health information in electronic form for any of the following eight basic transactions:

  • Claims
  • Electronic remittance advice
  • Eligibility
  • Authorization
  • Enrollment
  • Coordination of Benefits
  • Claims Status
  • Premium Payments
Who is affected by HIPAA?, continued

2) Health Plans:
   • Group health plans that have fifty or more participants
   • Health insurance issuers
   • Health Maintenance Organizations (HMOs)
   • Medicare Parts A and B, Medicaid Title 19

3) Clearinghouses - includes billing services, repricing companies, community health management information systems and value added networks
Protected Health Information

• What does HIPAA cover?
  – Protected Health Information (PHI)
  • Individually identifiable health information that is sent or kept in any form or medium (i.e., electronic, oral, written)
Permission to use PHI

• **Consent**
  – The patient gives permission to use and release PHI for:
    • treatment
    • payment, and
    • health care operations

• **Authorization**
  – The patient gives permission to use PHI for all other purposes.
Uses & Releases Requiring an Opportunity for the Individual to Agree or Disagree

• You must provide the individual an opportunity to agree or disagree to the use and release of PHI for the following purposes:
  – Inclusion in a facility directory
  – Release to clergy
  – Release to others involved with the patient’s care
  – Release to family members
Penalties

- Violations of HIPAA standards could result in the following:
  - 1-10 year jail sentence
  - $100.00-$250,000.00 in fines
Monitoring

- No external audit for HIPAA
  - Audit potential = every patient, every day
  - Internal compliance review critical

- Review for Privacy vulnerabilities before they become problematic – include patient point of view

- Similarities to OIG Work Plan and Documentation & Coding compliance review

- Similarities between Qui Tam Suits and Whistleblower provisions of HIPAA Privacy Rule

- Expand to include Business Associates, Volunteers, Vendors, Physicians not on staff

- HIPAA Enforcement Notice of Proposed Rule Making planned

- JCAHO inclusion of Privacy
Communications

- Include Patient Education - process for privacy concerns or complaints

- Establish policies and compliance review for publicity and media release

- Develop a logo and tagline

  - “Just Do It Right”
  - “Protecting Patient Privacy”

- Articles in Compliance newsletters and email updates
Responding to Concerns

- Compliance protocol for handling issues applicable to HIPAA Privacy

- Similar forms for logging complaints, ranking risk, tracking resolution

- Similar reporting process

- Hotline
  - Employees – internal compliance hotline
  - Patients – interface with customer service

- Goal is to resolve privacy issues internally
  - It is everyone’s right to complain directly to HHS
  - Compliance Officer and Privacy Officer response
Discipline

- HIPAA Privacy Rule:
  - “A covered entity must have and apply appropriate sanctions against members of its workforce who fail to comply with the privacy policies and procedures.”
  - No detail provided in regulation

- Privacy violation disciplinary action policies incorporated into existing Compliance and HR policies

- Extend existing disciplinary process and mechanisms to apply to Privacy violations

- Workforce awareness of HIPAA Civil and Criminal penalties for violations of the Privacy Rule